

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte L. LEE HUMPHRIES

Appeal No. 1998-0490
Application 08/543,057¹

ON BRIEF

Before COHEN, McQUADE and NASE, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 4, 9, 10, and 12 through 16. These claims constitute all of the claims remaining in the application.

Appellant's invention pertains to a foldable sunshield

¹ Application for patent filed October 13, 1995.

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for a vehicle window, to a sunshield, and to a method of manufacturing a sunshield for an automobile windshield. An understanding of the invention can be derived from a reading of exemplary claims 1, 9, and 14, copies of which appear in the APPENDIX OF CLAIMS (main brief, Paper No. 13).

As evidence of anticipation and obviousness, the examiner has applied the documents listed below:

Romano	4,083,395	Apr. 11, 1978
Moll	4,947,920	Aug. 14,
1990		
Kim	5,267,599	Dec. 7,
1993		

The following rejections are before us for review.

Claims 1 and 14 stand rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Moll.

Claims 4, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moll.

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Claims 1 through 4, 9, 10, and 12 through 16 stand rejected under 35 U.S.C. § 103 as being unpatentable over Kim in view of Romano.

The full text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 14), while the complete statement of appellant's argument can be found in the main and reply briefs (Paper Nos. 13 and 15).

OPINION

In reaching our conclusion on the issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims,² the applied patents,³

² Claim 14 lacks explicit antecedent basis for "said top edge" and "said bottom edge" (line 5). Nevertheless, we understand the claim as requiring a sunshield with a top edge and a bottom edge. The noted lack of a proper antecedent basis should be remedied during any further prosecution before the examiner.

³ In our evaluation of the applied references, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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and the respective viewpoints of appellant and the examiner.
As a consequence of our review, we make the determinations
which follow.

The anticipation issue

We reverse the rejection of claims 1 and 14 under 35
U.S.C. § 102(b) as being clearly anticipated by Moll.

Appellant's article claim 1 and method claim 14 each
respectively require creasing material of a sunshield from its
top edge to its bottom edge on the same or only one side of
the material, such that the sunshield is foldable accordion-
like. Read in light of appellant's underlying disclosure, it
is quite apparent to us that the specified top and bottom
edges of the sunshield refer to the edges of the sunshield at
the outermost limit of its lateral extent (corresponding to

the transverse dimension or height of a vehicle windshield).

In our opinion, the content of claims 1 and 14 is simply not anticipated by the invention of Moll. Unlike the claimed invention, Moll explicitly requires a quadrafoldable (Fig. 3c) windshield sunshade (Figs. 1 and 2) having longitudinal creases or folds on its interior surface (column 1, lines 57 through 61 and column 2, line 67 to column 3, line 1). In fact, Moll expressly points out that the longitudinal folds are not transverse accordion folds (column 3, lines 29 through 32). For these reasons, the anticipation rejection of appellant's claims is not sound, and must be reversed.

The obviousness issues

We reverse the rejection of claims 4, 9, and 10 under 35 U.S.C. § 103(a) as being unpatentable over Moll.

At the outset, we note that independent claim 9, akin to claims 1 and 14 discussed above, requires a plurality of creases defining sides of planar elements that extend from the

top edge to the bottom edge of a sunshield to permit the planar elements to fold accordion-like.

Consistent with the views we expressed, supra, this panel of the board does not discern any basis for a conclusion of obviousness relative to the claimed subject matter when Moll specifically instructs those versed in the art to fabricate a sunshade with longitudinal creases to permit quadrafolding of the sunshade. Accordingly, the rejection of claims 4, 9, and 10 must be reversed.

We turn now to the rejection of claims 1 through 4, 9, 10, and 12 through 16 under 35 U.S.C. § 103 as being unpatentable over Kim in view of Romano.

As to claim 1 (and claim 2 through 4 dependent thereon), we conclude that the evidence of obviousness would not have been suggestive of the claimed foldable sunshield. As we see it, Kim and Romano respectively teach readily distinguishable articles, i.e., a sunshield and an acoustic drape, wherein distinctly different structures effect accordion-like folding.

We certainly appreciate that the acoustic drape of Romano (column 3, lines 55 through 66) includes alternate hinge sections with different widths. Nevertheless, it is our conclusion that, absent appellant's own teaching in the present application, the combined teachings simply would not have suggested channels formed by creasing, with all channels being on the same side of the material of a sunshield to render it foldable in an accordion-like manner, as set forth in claim 1.

As to claim 9, we determine that the Kim teaching would have been suggestive of the claimed sunshield, notwithstanding appellant's argument to the contrary (main brief, pages 17 and 18). Kim (Figs. 12 through 14) teaches a sunshield with transverse accordion folds formed by alternately and transversely creasing interior and exterior surfaces of the sunshade. This known article may fairly be said to include a plurality of creases in succession wherein two of said successive creases (two alternate creases in Fig. 15) are on the same side of the material of the sunshade (sunshield), as broadly recited in claim 9. Thus, the rejection of claim 9 is

affirmed.

We reverse the rejection of claim 10 since the evidence of obviousness would not have been suggestive of the limitation of all creases on the same side of the material of the sunshield.

The rejection of claims 12 and 13, dependent from claim 9, is affirmed, since an argument has not been specifically made that the particular content of each claims 12 and 13 would not have been suggested by the applied prior art. Thus, these claims appropriately stand or fall with claim 9, the rejection of which has been affirmed.

We reverse the rejection of method claims 14 through 16. We incorporate herein our analysis above, reversing the rejection of claim 1 based upon the combined teachings of Kim and Romano. Akin to limitations present in claim 1, the method of independent claim 14 requires creasing on only one side of the sunshield being manufactured, the sunshield being foldable accordion-like. The claimed method of manufacturing

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a sunshield simply would not have been obvious based upon the applied art.

In summary, this panel of the board has:

reversed the rejection of claims 1 and 14 under 35 U.S.C. § 102(b) as being clearly anticipated by Moll;

reversed the rejection of claims 4, 9, and 10 under 35 U.S.C. § 103(a) as being unpatentable over Moll; and

reversed the rejection of claims 1 through 4, 10, and 14 through 16 under 35 U.S.C. § 103 as being unpatentable over Kim in view of Romano, but affirmed the rejection of claims 9, 12, and 13 on this same ground.

The decision of the examiner is affirmed-in-part.

No time period for taking subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

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AFFIRMED-IN-PART

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IRWIN CHARLES COHEN))
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOHN P. McQUADE)	
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